

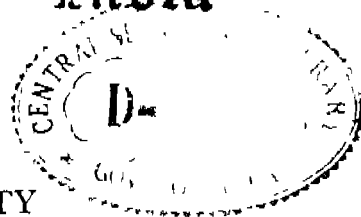
The Gazette of India



EXTRAORDINARY

PART II—Section 2

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No 24] NEW DELHI, FRIDAY, AUGUST 9, 1957/SRAVANA 18, 1879

LOK SABHA

The following Bills were introduced in Lok Sabha on 9th August, 1957:—

BILL No. 31 OF 1957

A Bill to provide for regulating employment and work in the factories manufacturing Beedi and Cigar in India.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Beedi and Cigar Labour Act, 1957.

Short title,
extent and
commence-
ment.

5 (2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

10 (a) 'Adult' means a person who has completed his eighteenth year of age;

(b) 'Adolescent' means a person who has completed his fifteenth year but has not completed his eighteenth year of age;

(c) 'Child' means a person who has not completed his fifteenth year of age;

15 (d) 'Week' means a period of seven days beginning at mid-night on Saturday;

5 of 1940.

(e) 'Workman' means any person employed to do any manufacturing process concerned with Beedi or Cigar industry for hire or reward and includes a person employed by a contractor, agent or manager to work for the principal employer in whose name the trade mark of the product is registered under the Trade Marks Act, 1940; 5

(f) 'Factory' means any premises including precincts thereof where ten or more persons are working or were working on any day of the preceding twelve months and in any part of which the rolling of Beedi or Cigar or any other manufacturing process connected with it is being carried out; 10

(g) 'Self-employed Worker' means any person who takes a licence for rolling Beedis or Cigars himself without engaging any hired labour;

(h) 'Qualified medical practitioner' means a person who is recognised as such by the Central or State Governments; and 15

(i) 'Wages' means all remuneration capable of being expressed in terms of money which would, if the terms of contracts of employment, expressed or implied were fulfilled, be payable to a person and includes gratuity and retirement benefits payable to a worker at the time of discharge, dismissal or retirement from the service of the employers. 20

CHAPTER II

Inspecting
Staff.

3. The Chief Inspector of Factories, all Factories Inspectors, Chairmen and Members of the Local Boards, Municipalities and Panchayats shall be qualified persons to be inspectors of Beedi and Cigar factories. All inspectors shall be subordinate to the chief inspectors of the concerned States. 25

Powers and
Functions
of Inspectors.

4. (1) Subject to any rules made by the State Government in this behalf, any inspector may:— 30

(a) make such examinations and enquiry to ascertain whether the provisions of the Act and the Rules made thereunder are being observed in any of the factories;

(b) examine any record or books maintained by the factory or factories; and 35

(c) exercise such other powers as may be prescribed.

(2) The Inspector shall inform the Secretary or Secretaries of the Labour Union or Unions in the concerned industry or factory before he inspects any factory or factories and the Secretary or

Secretaries of such Union or Unions shall have the right to accompany the inspector during his inspection and make any representation which may be deemed necessary.

5. Every employer shall afford to the Inspector all reasonable facilities for seeking any entry, inspection or enquiry under this Act. Facilities to be accorded to Inspectors.

6. (1) The State Government may appoint qualified medical practitioners to be the certifying surgeons for the purposes of this Act. Certifying Surgeons.

(2) The certifying surgeon shall carry out such duties as may be prescribed in connection with:—

(a) the examination and certification of workers;

(b) the exercise of such medical supervision as may be prescribed when adolescents and children are or are to be employed in any work in Beedi or Cigar industry which is likely to cause injury to their health.

CHAPTER III

7. In every factory, effective arrangement shall be made by employer to provide and maintain a sufficient supply of wholesome drinking water for the workers. Drinking Water.

8. There shall be provided in every factory sufficient number of latrines and urinals accessible to workers employed therein. Conservancy.

9. In all factories employing more than fifty workers, there shall be a visiting doctor who shall examine the workers at least once in six months. Medical facilities.

CHAPTER IV

10. The State Government may make rules requiring that in every factory wherein fifty workers or more are employed, one or more canteens shall be provided. Canteens.

11. The State Government may make rules requiring every employer to make available such recreational facilities for the workers and children employed therein as may be prescribed. Recreational facilities.

CHAPTER V

12. (1) No adult worker shall be required to work in Beedi or Cigar factories for more than forty-eight hours in a week or more than nine hours in any day. Hours and limitation of employment.

(2) No adolescent shall be required to work in any Beedi or Cigar factory for more than forty-two hours a week or eight hours in any day.

(3) No child shall be employed or permitted to work in any Beedi or Cigar factory for more than four and a half hours in any day.

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CHAPTER VI

Weekly holidays, compensatory leave and overtime work.

13. The State Government may, by rules made in this behalf:—

(a) provide a day of rest in every period of seven days which shall be allowed to all workers;

(b) provide for wages for such weekly holidays; and 10

(c) provide for overtime wages and compensatory day off in lieu of work done on any day of rest.

Daily intervals of work.

14. The period of work on each day shall be so fixed that inclusive of interval of rest it shall not spread over more than ten hours including the time spent on waiting for the work on any day.

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Notice of period of work.

15. There shall be displayed and correctly maintained in every factory a notice of period of work in such form and manner as may be prescribed showing clearly for every day the periods during which the worker may be required to work.

Prohibition of employment of young children.

16. No child who has not completed his fourteenth year shall be required or allowed to work in any Beedi or Cigar factory.

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Certificate of fitness.

17. (1) A certifying surgeon shall grant the certificate of fitness for any child or adolescent after examining his fitness for work.

(2) The certificate of fitness granted under this section shall be granted for a period of one year, but may be renewed.

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CHAPTER VII

Annual leave with wages.

18. Every worker shall be allowed leave with wages for a number of days calculated at the rate of,—

(a) if an adult, one day for every twenty days of work done by him; and

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(b) if a child or adolescent, one day for every fifteen days of work done by him.

Festival and National holidays.

19. Every worker shall be allowed ten days festival and national holidays with wages which shall include besides other holidays, Independence Day, Republic Day, Gandhi Jayanthi and May Day.

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20. Subject to any rules that may be made in this behalf, every worker shall be entitled to obtain from his employer,— Sick and Maternity benefits.

(a) in the case of a sickness certified by a qualified medical practitioner sickness allowance of annas twelve a day for a period of one month; and

(b) if a woman, in case of confinement or expected confinement, maternity allowance at such rates, for such period and for such intervals as may be prescribed.

CHAPTER VIII

21. In case where large number of women workers are employed, separate factories shall be established or set up for such women workers. Factory for women workers.

22. No employer shall engage any worker for any out work for manufacturing Beedi or Cigar. Out work.

23. Whenever any workman who has put in service of one year or more is retrenched, discharged, dismissed or retired, he shall be given benefits at the rate of fifteen days wages for every year of service put in by him. Retirement, retrenchment and gratuity benefits.

24. (1) Every employer of Beedi or Cigar industry shall guarantee full work for at least 280 days to workmen working under him. Guaranteed employment.

(2) In case the employer is not able to give full work to any worker, he shall compensate him:—

(a) by paying him the average daily rate of wages calculated on the basis of one month's wages; and

(b) in case of no work on any day, by paying the workman at least rupee one a day.

CHAPTER IX

Penalties and procedure

25. Whoever obstructs any Inspector from the discharge of his duties or refuses to produce any book, document or register for inspection, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to rupees fifty, or with both. Obstruction.

26. (1) No self-employed worker shall sell or otherwise dispose of his produce of Beedi or Cigar to any factory owner, dealer or merchant in Beedi or Cigar having tobacco licence or trade mark of any particular brand of Beedi or Cigar. Sale of Beedis by self-employed workers.

(2) Any person contravening this provision shall forfeit his licence for rolling Beedi or Cigar and shall be punishable with fine which may extend to rupees one hundred.

Purchase of
Beedi by the
principal
employer or
Trade Mark
holder.

27. Any factory owner, merchant, dealer or principal employer in whose name any Beedi or Cigar trade mark is registered shall be punishable with imprisonment for six months, or with a fine of rupees one thousand, or with both in case he or his agent buys Beedi or Cigar from any self-employed worker. 5

Trying
authority

28. (1) Every Third or Second Class Magistrate shall have powers to try any offence punishable under this Act. 10

(2) The Inspector of Factories shall be the authorised person to lodge any complaint under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Beedi and Cigar industries are among the worst sweated industries in India. Low wages, insecurity of employment, partial employment, employment of children, high incidence of T.B., absence of protective labour legislation, out work and branch system, all these demand introduction of an immediate legislation with a view to regulating the above industries on factory basis and securing the workers certain minimum conditions of work. The Rege Committee Enquiry Report as far back as 1946 has stressed the importance of such a legislation.

This Bill seeks to put the Beedi and Cigar industry on a factory basis while still protecting the self-employed worker.

This Bill also seeks to assure the workers the benefits of protective labour legislation available to large sections of industrial workers.

NEW DELHI;

A. K. GOPALAN.

The 16th May, 1957.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3: In addition to the Chief Inspector of Factories and all Factory Inspectors, this clause envisages delegation of powers of inspection of Beedi and Cigar factories to Chairmen and Members of Local Boards, Municipalities and Panchayats. This implies that for the purpose of inspection, the officials of the Local Self-Government establishments mentioned above shall be treated on a par with Factory Inspectors, but subordinate to the Chief Inspector of Factories of the States. The State Governments shall have to frame appropriate rules in this matter. This provision is purely of a normal and routine character.

Clause 4 is consequential, but also stipulates that the Secretaries of Labour Unions are intimated in advance of the Inspectors' visit to the factories and empowers such Labour Union Secretaries to accompany the Inspector during the inspection of Beedi and Cigar factories.

Clause 6 empowers State Governments to appoint certifying surgeons whose duties are stipulated in sub-clause (2) (a) and (b). This is of routine character.

Clause 10 and 11 delegate rule-making powers to the State Governments regarding stipulation of number of canteens and recreational facilities in Beedi and Cigar factories. These are of normal and routine character.

Clause 13 delegates rule-making powers to the State Governments in the matter of holidays, compensatory leave and overtime work, subject to conditions laid down in sub-clauses (a), (b) and (c).

All the delegated legislation envisaged in the Bill is of a normal type, and purely routine in character.

BILL No. 32 OF 1957

A Bill to provide for the protection and maintenance of old and infirm persons under the Directive Principles of State Policy.

WHEREAS it is expedient to provide for the protection and maintenance of the old and infirm persons in India;

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

5 1. (1) This Act may be called the Old and Infirm Persons' Homes Act, 19 .

Short title,
extent and
commence-
ment,

(2) It extends to the whole of India except the State of Jammu and Kashmir.

10 (3) It shall come into force on such dates and in such areas as the State Governments may, by notification in their Official Gazettes, appoint.

2. In this Act unless there is anything repugnant in the subject or context—

15 (a) "Home" means home for the old and infirm persons who are kept there for maintenance;

(b) "Board" means Board of Control as provided in section 4;

(c) "old" means a person who has attained the age of sixty years;

(d) "infirm" means a person who is physically weak though he might not have attained the age of sixty years; and

(e) "registered member" means a member of the Old and Infirm Persons' Home whose name occurs on the roll of subscribers' register maintained by the Managing Committee, who pays subscription and who is eligible to vote. 5

States to
maintain
forces.

3. Every State shall maintain at least one Home, preferably at its capital, which shall be managed and aided by it.

Board of
Control.

4. There shall be a Board of Control consisting of two official and three non-official members for the maintenance of each Home. 10

Managing
Committee.

5. (1) There shall be a Managing Committee elected by the general body of the registered members of the Home.

(2) The function of the Committee shall be to manage and supervise the Home.

(3) The Committee shall have powers to make rules for the efficient management and supervision of the Home. 15

STATEMENT OF OBJECTS AND REASONS

There are hundreds of old and infirm persons who are entitled to get maintenance under the Directive Principles of State Policy.

The object of the Bill is to protect and maintain the old persons who have no means of livelihood. The Bill seeks to help the old and infirm persons to begin with by having at least one Home in each State.

RAGHUNATH SINGH.

NEW DELHI;

The 18th May, 1957.

FINANCIAL MEMORANDUM

Clause 3 of the Bill involves some expenditure. It is not possible at this stage to indicate the exact amount of expenditure. But to start with a recurring grant of Rs. 5 lakhs should be sanctioned. A Committee consisting of Members of Parliament, Officials and Non-officials in each State should be appointed to work out the scheme until Homes are established by Government. The Committee would in consultation with the State Governments arrange with existing Government hostels or reliable private individuals for undertaking the care of the old and infirm.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The rule making power under the Bill is of a normal character. The scope of clause 5(3) is limited to the efficient functioning of the Managing Committee to be established under this Bill.

BILL No. 30 OF 1957.

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Indian Penal Code (Amendment) Act, 1957.

Omission of section 497. 2. Section 497 of the Indian Penal Code, 1860, shall be omitted.

XLV of 1860.

STATEMENT OF OBJECTS AND REASONS

Section 497 of the Indian Penal Code provides punishment for the man who commits adultery with the wife of another man, but it exempts the wife of that another man from being punished as an abettor. This is a discrimination in favour of women in the matter of punishment for adultery, which is in contravention of the provisions of Articles 14(1) and 15 of our Constitution. Hence the necessity for deleting section 497.

RAGHUNATH SINGH.

NEW DELHI;

The 18th May, 1957.

BILL NO. 44 OF 1957.

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 19 .

(2) It shall come into force at once.

Insertion of
new section
124 B.

2. After section 124A of the Indian Penal Code, 1860 the following new section shall be inserted namely:—

XLV of
1860.

Harming in-
dependence
and unity
of Indian
Union and
States.

“124B. Whoever

(a) commits an act towards harming the independence and unity of the Indian Union or its States or the security of its territory;

(b) joins armed forces in a state of war with India;

(c) helps or communicates with a foreign country or its agents to commit acts of aggression against Indian Union or its States; and

(d) communicates or helps an enemy country or its agents to harm India militarily, politically or economically shall be punished with death or transportation for life or any shorter term extending to ten years, to which fine may be added.”

STATEMENT OF OBJECTS AND REASONS

When the Indian Penal Code was framed nearly 100 years ago India was not independent. After independence the whole angle of vision is now changed. Any kind of armed rising from within or without, and any kind of undesirable connection and communication with any foreign country and its agents threatening the peace and freedom of the nation should be well guarded and the offenders punished. In the Indian Penal Code 1860 there is no adequate punishment for such types of crimes as are dangerous to the unity of India and its States. The amendment is therefore intended to fill up this lacuna in the law. Hence the Bill.

NEW DELHI;
The 22nd May, 1957.

RAGHUNATH SINGH.

BILL No. 35 OF 1957

A Bill further to amend the Arbitration Act, 1940.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Arbitration (Amendment) Act, 19 .

(2) It shall come into force at once.

Amendment
of Section 2
Act X of
1940.

2. In Section 2 of the Arbitration Act, 1940, (hereinafter referred to as the principal Act) after clause (e), the following shall be inserted namely:—

“(f) ‘legal practitioner’ means a legal practitioner as defined in the Legal Practitioner Act, 1879 (XVIII of 1879) and includes an advocate of the Supreme Court.”

Insertion of
new Chapter
IVA in Act
X of 1940.

3. After Chapter IV of the principal Act the following new Chapter shall be inserted, namely:—

“CHAPTER IVA

ARBITRATION BY LEGAL PRACTITIONERS

25A. (i) *Appointment of arbitrators.*— The parties to an arbitration agreement may agree to appoint one or more legal practitioners as an arbitrator or arbitrators, as the case may be, for deciding the matter in dispute without the intervention of the court.

(ii) Parties to a pending suit or appeal agreeing to refer their dispute to arbitration under section 21 may agree that the matter in dispute may be referred to one or more legal practitioners to be named by them or to be appointed by the Court.

(iii) Whenever a court has to appoint a sole arbitrator or arbitrators under this Act, it may appoint one or more legal practitioners as sole arbitrator or arbitrators, as the case may be, for deciding the dispute.

25B. *Procedure to hear suits by arbitrators.*—The arbitrator or arbitrators to whom a dispute has been referred by the parties or by the court in pursuance of the agreement of parties as provided in section 25A shall proceed to hear the suit and follow the procedure laid down in the Code of Civil Procedure (Act V of 1908) and will decide it according to law.

25C. *Award of arbitrators.*—The award of such arbitrators shall be subject to the control of Court in the same way as if it were the award of arbitrators made under Chapters II, III or IV, and shall be filed in court as provided therein.

25D. *Judgment and decree.*—After the award has been filed and objections thereto have been disposed of by the court in accordance with the provisions of this Act the Court shall proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow.

25E. *Appeal.*—Any judgment or decree passed in accordance with the award under section 25C, shall be appealable, in the same way as if it were a judgment or decree of the court by which it has been passed.

25F. *Remuneration of the arbitrator.*—The remuneration of the arbitrator or arbitrators shall be such as settled between the parties and the arbitrators or as fixed by the Court.

25G. *Application of other chapters to arbitrations under the new chapter.*—The provisions of the other chapters of this Act shall so far as they can be made applicable, apply to arbitrations made under this Chapter."

4. In Section 39 of the principal Act,

(a) after sub-section 1, the following shall be inserted, namely:—

"(1a) From the judgment and decree passed under section 25C a first appeal shall lie according to the provisions of section

Amendment
of Section
39, Act X of
1940.

96 and a second appeal in accordance with the provisions of section 100, and an appeal to Supreme Court in accordance with the provisions of Sections 109 and 110 of the Code of Civil Procedure, (Act V of 1908); and

(b) In sub-section (2) the following shall be added in the beginning, namely:—

“Except as provided in clause (1a)”

STATEMENT OF OBJECTS AND REASONS

Arbitration is a very old and popular method of settlement of disputes in India. The various arbitration Acts were intended to encourage reference of disputes to arbitrators. The Arbitration Act (X of 1940) consolidated the law on the subject and provided for the supervision of the Court at every stage, from the time an agreement for reference to arbitration was entered into by the parties upto the decree. Arbitrators were even empowered to refer any matter for the opinion of the court by section 13 of the Act.

In practice, this is not being resorted to generally. Due to extensive legal education in the country persons well versed in law are available at every place. Such persons can very well try and decide the cases in accordance with the provisions of law. If the judgment of such arbitrators is made appealable, all apprehensions as to the improper use of power by the arbitrators on the part of parties and the apprehension of defamation in court on the part of the arbitrators, would disappear. It will provide a speedy trial of cases and relieve the pressure of work on courts. Without disturbing the scheme of the Act, and upsetting the system of arbitration provided by it an alternative provision for reference of disputes to the advocates and making their judgment appealable would provide a way out of the difficulty. Hence this Bill.

NEW DELHI;
The 24th May, 1957.

RAGHUNATH SINGH.

BILL No. 40 OF 1957

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

Short title
and commen-
cement.

1. (1) This Act may be called the Constitution (Amendment) Act, 19

(2) It will come into force at once.

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Amendment
of Article 58.

2. In Article 58 of the Constitution the following new clause shall be added, namely:—

“(3) No person shall be elected to the office of President more than twice consecutively except in the duration of any war.”

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STATEMENT OF OBJECTS AND REASONS

This Bill is intended to restrict the term of office of the President of India so that no person may be elected as President for more than two consecutive terms except during war time.

NEW DELHI;

RAGHUNATH SINGH.

The 24th May, 1957.

BILL No. 53 OF 1957

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:

Short Title. 1. This Act may be called the Companies (Amendment) Act, 19

Amendment of Section 293. 2. In Section 293 of the Companies Act, 1956 after clause (e) of sub-section (1) the following shall be inserted namely:—

1 of 1956.
5

“Provided that no contribution in excess of five thousand rupees under clause (e), shall be permissible without the previous sanction of the Court and shall not take effect until the expiry of one hundred days from the date of publication of the said sanction in the Press and notice to all persons or class of persons whose interests will in the opinion of the Court be effected by the contributions.”

STATEMENT OF OBJECTS AND REASONS

In the Companies Act of 1913, there was no direct and specific provision for contribution by Companies to political party funds. The Companies Act, 1956 for the first time incorporated a provision in section 293 that the Board of Directors shall not except with the consent of such company in General meeting contribute after the commencement of the Act to charitable and other funds not directly relating to the business of the Company, any amounts the aggregate of which will in any financial year, exceed Rs. 25,000 or 5 per cent. whichever was greater.

Since the enactment of the Companies Act, 1956 two judicial pronouncements have been made by the Calcutta and the Bombay High Courts in the cases of Indian Iron & Steel Co. Ltd., and the Tata Iron & Steel Company Ltd., respectively pointing out certain lacunae in the Act regarding payment of funds to the political parties which have important bearings on the growth of democracy and democratic institutions in India.

The present Bill which is based on these judgments of the High Courts seeks to amend section 293 (1) (e) of the Companies Act, 1956 so that no contribution in excess of Rs. 5,000 may be made by the Company without the previous sanction of the Court.

NEW DELHI;

SURENDRA MAHANTY.

The 24th June, 1957.

BILL No. 48 OF 1957

A Bill further to amend the Cantonments Act, 1924.

BE it enacted by the Parliament in the Eighth year of the Republic of India as follows:

Short title
and com-
mencement.

1. (i) This Act may be called the Cantonments (Amendment) Act.

(ii) It shall come into force at once.

Amend-
ment of
Section 13.

2. In section 13 of the Cantonments Act (hereinafter referred to as the principal Act)—

5

2 of 1924.

(1) in sub section 3, for clause (f) the following shall be substituted namely,

“(f) Eleven members elected under the Act”.

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(2) in sub section 4, for clause (f) the following shall be substituted namely,

“(f) Such number of members elected under this Act as to make the ratio of elected to non-elected members at 2 to 1.”

15

(3) in sub-Section 5, in clause (f) for the word “one” the word “Three” shall be substituted.

Omission of
Section 14.

3. Section 14 of the principal Act shall be omitted.

Amend-
ment of
Section 60.

4. In sub-Section (1) of Section 60 of the principal Act the following words shall be omitted:

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“with the previous sanction of the Central Government”.

STATEMENT OF OBJECTS AND REASONS

The Cantonments Act in its present form has become outmoded and inconsistent with the present administrative set up of the country. It is therefore necessary to amend it on the general lines of local self-governing bodies in India. Hence the bill.

NEW DELHI;

JHULAN SINHA.

The 19th June, 1957.

M. N. KAUL,
Secretary.

